



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Tom L. Hartley  
Criminal District Attorney  
Hidalgo County  
Edinburg, Texas

Dear Sir:

Opinion No. O-4959  
Re: Subdivision (d) of Section  
13 of Article 3912a, V.A.C.S.,  
as added by Acts 1941, 47th  
Leg., p. 74, Ch. 61, § 1, is  
unconstitutional.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Paragraph (d) of Section 13 of Article 3912a of Vernon's Annotated Statutes of the Added Acts 1941, 47th Leg., p. 74, ch. 61, § 1, provides as follows:

"The commissioners' courts of the respective counties of Texas having a population of more than one hundred two thousand and one (102,001) and less than one hundred ten thousand (110,000), according to the last preceding Federal Census are hereby authorized to fix the salary of the County Treasurer of their particular county at any sum not less than Six Hundred (\$600.-00) Dollars per year, nor more than Twenty-seven Hundred (\$2,700.00) Dollars per year. In the determination of such salary the Court will consider the fees received by such office during the preceding fiscal year, the expenses of that office during the same period, and the relative duties incumbent on such office; and shall in their discretion affix to such office such

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compensation as they deem just and necessary for the services rendered, within the limits hereinbefore provided.'

"Hidalgo County, with a population of 106,664 according to the 1940 Federal Census, appears to be the only county affected by this Act.

"Under section 56 of the Article 3 of the Constitution of Texas and the City of Fort Worth v. Sobbitt, 36 S. W. (2d) 470, Bexar County v. Tynan, et al., 97 S. W. (2d) 567, and various opinions of your office relating to Acts of the Legislature applying to only one county, it is my opinion that the above portion of said Act is unconstitutional.

"Will you please advise me whether or not I am correct in this conclusion?"

Hidalgo County, Texas, is the only county in Texas coming within the population brackets set out in the above quoted subdivision.

It is our opinion that you have correctly answered the question.

The above quoted subdivision is clearly unconstitutional and void. See the following authorities:

Section 56, Art. III, Texas Constitution  
Miller vs. El Paso County, 150 S. W. (2d) 1000  
Bexar County v. Tynan, 97 S. W. (2d) 467  
Clark vs. Finley, 54 S. W. 343  
Smith v. State, 49 S. W. (2d) 739  
Fritter v. West, 65 S. W. (2d) 414  
Wood v. Marfa Ind. School Dist., 123 S.W. (2d) 429

We enclose herewith copies of Opinions 0-1957 and 0-3662, which hold similar acts unconstitutional.

NOV 13, 1942

*Gerald C. Nease*  
ATTORNEY GENERAL

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. Fenning*

Wm. J. Fenning  
Assistant

WJF:db  
Enclosures